



King County Board of Ethics
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KING COUNTY BOARD OF ETHICS MEETING NOTICE

When: Monday, March 19, 2001, at 4:30 p.m.

Where: Bank of California Building
900 Fourth Avenue, 4th Avenue and Marion Street, Seattle
5th floor conference room (NORTHWEST corner of building)

AGENDA

1. ***Approval of Agenda***
2. ***Approval of Meeting Minutes of February 20, 2001.***
3. ***Post Employment Provision Under the Code of Ethics.*** Final review of proposed amendment.
4. ***Filing of Orders and Decisions Under the Code of Ethics.*** Continued review and discussion.
5. ***Staff Report***
2002 Washington State Ethics Conference—status
Financial Disclosure Program—status
Ethics Code Review—next steps
6. ***Request for Guidance on Identifying and Addressing Conflict of Interest Within with the King County Rural Forest Commission.*** Discussion and board response.

cc: Ron Sims, King County Executive
King County Councilmembers
Duncan Fowler, Director—Ombudsman, Office of Citizen Complaints
James J. Buck, Acting Director, DIAS
Carl A. Johansen, Senior Deputy Prosecuting Attorney
Donald J. Porter, Senior Deputy Prosecuting Attorney
Robert Bruce, Manager, Records and Elections Division, Department of Information and Administrative Services
Jean Bouffard, Chair, King County Rural Forest Commission
Bill Kombol, Member, King County Rural Forest Commission
Benj Wadsworth, Staff Liaison, King County Rural Forest Commission, DNR

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are available by calling (206) 296-1586 or TTY 1-800-833-6388.

ALTERNATE FORMATS AVAILABLE

Minutes of the March 19, 2001, Meeting of the King County Board of Ethics

The March 19, 2001, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:34 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair
Margaret T. Gordon, Ph.D.
Rev. Paul F. Pruitt
Mr. Roland H. Carlson was excused
Lembhard G. Howell, Esq., was absent

Others in attendance:

Ms. Catherine A. Clemens, Administrator, King County Board of Ethics
Mr. James J. Buck, Acting Director, Department of Information and Administrative Services
Mr. Carl A. Johansen, Senior Deputy Prosecuting Attorney
Mr. Donald J. Porter, Senior Deputy Prosecuting Attorney
Mr. Duncan Fowler, Ombudsman—Office of Citizen Complaints
Ms. Jean Bouffard, Chair, King County Rural Forest Commission, DNR
Mr. Bill Kombol, Member, King County Rural Forest Commission, DNR
Mr. Fred McCarty, Member, King County Rural Forest Commission, DNR
Mr. Benj Wadsworth, Staff Liaison, King County Rural Forest Commission, DNR
Ms. Kathy Creahan, Forestry Program Coordinator, DNR

1. *Proposed Agenda.* Dr. Gordon moved and Rev. Pruitt seconded that the board approve the proposed agenda. The board unanimously adopted the motion.

Chair Price Spratlen asked for introductions from those present.

2. *Approval of Meeting Minutes of February 20, 2001.* Rev. Pruitt moved and Dr. Gordon seconded that the board approve the February 20, 2001 meeting minutes. The board unanimously adopted the motion.

3. *Post Employment Provision Under the Code of Ethics.* Mr. Johansen briefed the board. Mr. Johansen drew the board's attention to edits in the draft amendments made at its direction, specifically the wording of "person" and "beneficial." Following discussion, Dr. Gordon moved to approve the proposed amendments to the post employment provisions under the Code of Ethics for soliciting comments from employees and interested parties; Rev. Pruitt seconded the motion and the motion passed unanimously. Following board discussion of the notification process for employees and interested parties, Rev. Pruitt moved to approve the process and Dr. Gordon seconded the motion. The motion passed unanimously.

At this time, the board agreed to reorder the agenda and delay item #4, Request for Guidance on Identifying and Addressing Conflict of Interest Within the King County Rural Forest Commission, until the requestor arrived.

4. *Filing of Orders and Decisions Under the Code of Ethics.* Mr. Johansen briefed the board. Mr. Johansen discussed an issue raised by the board during the February 20th meeting. Specifically, the board asked why KCC 3.04.055 H requires the Ombudsman to provide to the Prosecuting Attorney's Office a copy of a finding of reasonable cause to believe an employee violated the ethics code before the appeal period has ended. Mr. Johansen stated that after researching the issue and discussing the matter with the Prosecuting Attorney's Office, he believed the filing requirement should remain as is. The reason for maintaining the current language is because, as the county's legal advisor, the Prosecuting Attorney's Office (PAO) needs early notice of such potential issues. Further,

since it may be required to provide legal defense for county employees, it may require time to prepare. Mr. Fowler responded that his initial response was to treat the PAO the same as other agencies, but will accept this requirement if the board so chooses. Rev. Pruitt asked who provides the legal defense and Mr. Johansen responded that employees may receive defense by the PAO if the employee was acting in his or her capacity as an employee and if he or she were acting in good faith. Dr. Gordon made suggestions to simplify language in the draft. General discussion took place regarding methods of transmitting the proposed draft amendments to the executive and county council. Dr. Gordon moved to approve the proposed draft amendment for filing of orders and decisions under the Code of Ethics and proceed with the process to move the document to the executive and council. Rev. Pruitt seconded the motion and the motion passed unanimously.

5. *Staff Report.* Ms. Clemens briefed the board. 2002 Washington State Ethics Conference. Ms. Clemens has organized a planning meeting for staff representing potential co-sponsors of the 2002 conference: King County Board of Ethics, Seattle Ethics and Elections Commission, Washington State Legislative Ethics Board, Washington State Executive Ethics Board and Washington State Commission on Judicial Conduct. The first meeting will be held on May 8 at which time the group will consider conference location, date, topics and potential speakers. Ms. Clemens stated that Dr. J. Patrick Dobel had declined participation on behalf of himself and the Cascade Center. The board suggested investigating other educational institutions as additional co-sponsors, such as Seattle University. Financial Disclosure Program. The program is progressing well and compliance figures are high for this time of year. The ethics office is working with Mr. Buck and the executive's office to ensure 100% filing compliance by April 16, 2001. Ethics Code Review. Ms. Clemens informed the board that she and Mr. Porter will provide past board decisions on code review, as well as offer additional provisions for its consideration. Rev. Pruitt moved to accept the staff report as presented; Dr. Gordon seconded and the motion passed unanimously.

Mr. Fowler arrived at 5:13 p.m.

Ms. Clemens distributed the 2000 Annual Report just delivered by the printer that day. Ms. Clemens stated that the significant accomplishments detailed in the report reflect the board's hard work and dedication. She expressed the great appreciation felt by King County for each member's contribution as a citizen volunteer.

6. *Request for Guidance on Identifying and Addressing Conflict of Interest Within the King County Rural Forest Commission.* Ms. Clemens briefed the board. The board has been asked by Ms. Jean Bouffard, Chair of the King County Rural Forest Commission (KCRFC), to provide guidance on addressing and identifying conflicts of interest within the commission. Her request was included as an attachment, as well as a response from Commissioner Bill Kombol. Ms. Clemens began by citing to relevant legal and policy references, including:

- Members of King County boards, commissions, committees, or other multi-member bodies are considered county employees and are thus subject to the jurisdiction of the Code of Ethics while in the service of the county. KCC 3.04.017(D)
- It is the policy of King County that the private conduct and financial dealings of public officials and employees shall present no actual or apparent conflict of interest between the public trust and private interest. Public confidence in government is essential and must be sustained by establishing and enforcing rules to assure the impartiality and honesty of officials and employees in all public transactions and decisions. KCC 3.04.015
- No county employee shall engage in any act, which is in conflict with the performance of official duties. KCC 3.04.030.

- Members of boards and commissions who commit a violation of this chapter shall be subject to immediate removal from such appointment. KCC 3.04.060(B)(3)
- Advisory Opinion 1081 (Nov 1993) states that members of boards, commissions, and committees can avoid conflicts of interest during the decision-making process by following these guidelines: (1) disclose potential conflicts in advance to the appropriate department director or division manager; (2) publicly disclose conflicts of interest at the board meeting; and (3) abstain from participating in discussions or voting on any issue where a conflict of interest may be involved. These actions should be followed with regard to all major decisions including, but not limited to, the consideration of contracts and policy recommendations, even if only advisory in nature. (Ms. Clemens noted that she provided a copy of this opinion to KCRFC staff last year following a discussion between the administrator and staff about potential conflict of interest on the KCRFC.)

Mr. McCarty stated that the KCRFC's policies on conflict of interest seemed to be in conflict with the advisory opinion in terms of recusal from discussion, and asked which policy takes precedence. Mr. Johansen stated that advisory opinions are advisory only and KCRFC policies represent the KCRFC's view of how members should conduct themselves; neither policy trumps the other. However, if a complaint is filed, the Office of Citizen Complaints—Ombudsman would investigate, determine what that office concluded was required by the Code of Ethics and issue findings. The Board of Ethics could hear an appeal on those findings. Mr. McCarty then asked if KCRFC members could simply proceed as they had been until there is a test case? Mr. Kombol asked when serving the public or a class of people becomes a conflict of interest? Rev. Pruitt stated that it is when you have a private interest and may benefit as an individual. Mr. Fowler stated that the issue of monetary gain as a result of one's participation would indicate a conflict situation. Mr. Johansen stated that knowledge and intention should be considered and that a member should not participate in county actions if he or she could benefit financially or personally. Mr. McCarty asked, if more than one person would benefit financially or personally, would that not change it to a class interest, not a personal one. Mr. Johansen noted that it is the closeness or magnitude of your personal interests that brings you into a conflict of interest.

Ms. Clemens stated that a number of boards and commissions serving King County attract and recruit members having a strong expertise in a particular area. Some of these members also bring business interests that do business with the county. Because of this overlapping interest between personal and financial interest and responsibilities as a member, conflict of interests may occur. Examples include public health commissions and arts commissions, in which many of the members work for agencies that receive funding from the department in which the board or commission lies. These groups have found that the key to avoid conflict for members is for the board or commission to establish policies that include recusal from discussion and voting on issues in which they have financial interests, whether for themselves or their businesses.

Ms. Jean Bouffard arrived.

Chair Price Spratlen suggested that the KCRFC clarify its processes. Mr. Johansen stated that there is no final authority on conflicts of interest until a complaint is filed, investigated, and findings issued, with a possible appeal to the Board of Ethics and even to Superior Court. Mr. Wadsworth stated that the closeness of personal interest to matters before the commission is the issue troubling them, and asked how they should decide what is personal interest versus interests of a group. Rev. Pruitt stated he was surprised discussion was allowed by members who stated they had a conflict, but offered that perhaps initial discussion might be allowed. Chair Price Spratlen stated that the reason a person participates in discussions is to persuade; even if you don't vote, the discussion affects the outcome. Mr. Kombol stated that it is important to take part in the discussion especially when there are minority and majority opinions. If you are not allowed to vote on an issue,

you are prevented from participating. He stated that members advise in order to improve society.

Chair Price Spratlen asked Ms. Bouffard to introduce herself.

Dr. Gordon stated that there might be something structurally wrong with the commission. It seemed everyone had a potential conflict since by ordinance, they represent specific groups and interests. Chair Bouffard stated that within the commission, conflict of interest could occur under specific situations, such as when a member has a personal gain. As commission chair, she would like the ethics board to advise on how to deal with such situations. Mr. Johansen suggested that, beyond the relevant legal references noted earlier, Washington State Executive Ethics Board opinions could offer insight and direction.

Rev. Pruitt and Mr. Fowler left the meeting at 5:55 p.m.

Ms. Clemens suggested the KCRFC investigate how other county boards and commissions have successfully dealt with similar situations, including those under the direction of the Department of Public Health and Office of Cultural Resources. Members of these boards and commissions have identified and resolved the conflict of interest situations by developing and agreeing to abide by clear written policies. Some boards require written agreement in order to serve. Ms. Creahan asked Ms. Clemens to read the questions asked in Chair Bouffard's request and responses based on the administrator's research and discussion with counsel that Ms. Clemens had previously read out to the board. Ms. Clemens read the points and stated that she would send a copy to Chair Bouffard. Chair Price Spratlen stated that the board was unable to resolve the issue today since a quorum no longer existed. Chair Bouffard stated that Mr. Kombol has said he would be punished for his stance on issues, but when you have a personal interest in matters before the commission, you have a conflict of interest. Ms. Creahan asked if the responsibility to disclose and recuse is the responsibility of the individual? Mr. Johansen stated 'yes.'

Chair Bouffard asked if the board would take final action. Chair Price Spratlen stated that the board would reflect on the issue, but the onus is on the KCRFC to review its policies to determine if they should change the policies or if they should file a complaint with the Ombudsman based on conflict of interest. Mr. Johansen summarized that the ethics code applies to commissioners; that opinion 1081 and the KCRFC policies are not consistent; and that whether or not the KCRFC changes its policies, a complaint could be filed with the Office of Citizen Complaints—Ombudsman. Chair Price Spratlen stated that the board would await the KCRFC actions, if any.

The meeting was adjourned at 6:10 p.m.

Approved this 16th day of April, 2001, by the King County Board of Ethics.

Signed for the Board: _____

Dr. Lois Price Spratlen, Chair